

16 JUN 2000



**UNITED STATES DEPARTMENT OF COMMERCE
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Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
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Washington, D.C. 20231

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In re Application of	:	
McKechnie et al	:	Response to
Application No.: 09/308,860	:	
PCT No.: PCT/GB97/03317	:	Status Inquiry
Int. Filing Date: 03 December 1997	:	
Priority Date: 04 December 1996	:	
Attorney's Docket No.: 08291/600001	:	
For: METHOD OF CONTROLLING AND REMOVING	:	
DUST AND OTHER PARTICLES FROM A MATERIAL	:	

This is in response to applicant's Status Request filed 09 November 1999.

BACKGROUND

On 03 December 1997, applicant filed international application PCT/GB97/03317, which claimed priority of an earlier British application filed 04 December 1996. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 June 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 May 1998, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 June 1999.

On 26 May 1999, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). An executed oath or declaration as required by 35 U.S.C. 371(c)(4) was not filed.

On 17 June 1999, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath

or declaration and the surcharge for filing the oath or declaration later than 30 months from the priority date must be filed. The notification set a one-month time limit in which to respond.

On 28 March 2000, the United States Designated/Elected Office mailed a Notification of Abandonment under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/909) indicating that the applicant failed to respond to the Notification of Missing Requirements..

DISCUSSION

Applicant has stated that he has received no communication in the above-identified application. A review of the written record indicates no irregularity in the mailing of the Notifications dated 17 June 1999 and 28 March 2000, and in the absence of any irregularities there is a strong presumption that the Notifications were properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notifications were not in fact received. The showing required to establish the failure to receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by practitioner and attesting to the fact that a search of the filed jacket and docket records indicate that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Alternatively, applicant may wish to file a petition to revive this application under 37 CFR 1.137.

FEES

The copy of the 26 May 1999 transmittal letter filed with the status inquiry on 17 November 1999 was mistakenly taken for a new filing and fees totalling \$1420 were charged to application number 09/423,399 to counsel's deposit account. Accordingly, these fees will be credited back to counsel's deposit Account No. 06-1050.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

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